

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS

FEB 19 1998

DAVID J. MALAND, CLERK

UNITED STATES OF AMERICA, ex rel.
J. BENJAMIN JOHNSON, JR., et al.,

Plaintiffs,

v.

EXXON COMPANY USA, et al.

Defendants.

BY
DEPUTY _____

C.A. NO. 9:96CV66
JUDGE HANNAH

Ex Parte and Under Seal

**NOTICE OF UNITED STATES' ELECTION TO INTERVENE AS TO CERTAIN
DEFENDANTS AND NOTICE AS TO REMAINING DEFENDANTS**

Pursuant to the False Claims Act, 31 U.S.C. § 3730(b)(4), the United States hereby notifies the Court that (1) the United States has elected to intervene and proceed with this action as to four of the defendants, and (2) as to the remaining defendants, the United States has not made a determination as to whether to intervene in this action and will continue its investigation of those defendants.

Election to Intervene

The False Claims Act provides that individuals ("relators") may file an action on behalf of the United States under the False Claims Act. 31 U.S.C. § 3730. The relators in the captioned case

initially filed four complaints under seal pursuant to the qui tam provisions of the False Claims Act, 31 U.S.C. § 3730. In accordance with section 3730(b)(2) of the Act, the Fourth Amended Original Complaint has not yet been served on the defendants and remains under seal.

Section 3730(b)(2) also provides that the United States has sixty (60) days from receipt of both the complaint and "substantially all material evidence and information" possessed by the qui tam relator in which to decide whether to intervene in this action. The Court may grant extensions of this sixty day time period upon a showing of "good cause." 31 U.S.C. § 3730(b)(3). The Court has granted several extensions of the sixty day period, the latest of which extends until February 19, 1998.

Accordingly, the United States elects to intervene and to proceed with the prosecution of this action as to the following defendants: (1) Shell Oil Company, Shell Frontier Oil & Gas, Inc., Shell Offshore, Inc., and Shell Western E. & P., Inc.; (2) Burlington Resources, Inc., Burlington Resources Oil & Gas Company, and Burlington Resources Trading, Inc.; (3) Amoco Oil Company and Amoco Production Company; and (4) Conoco, Inc. The United States will file an amended complaint as to those defendants.

The United States requests that the Fourth Amended Original Complaint filed by relators, this Notice, and all pleadings, motions and memoranda filed after the date of the Court's order be unsealed and served on the defendants. The United States further requests that all other contents of the Court's file in this matter, including complaints, applications filed by the United States for extensions of the sixty-day seal period, as well as any supporting memoranda and declarations, remain under seal and not be served on the defendants or otherwise made public. An order so providing is attached for the Court's convenience.

**Notice of Lack of Intervention Decision
As to Remaining Defendants**

The United States hereby notifies the Court that, as to the remaining defendants named in the Fourth Amended Original Complaint, the United States has not yet decided whether to intervene. The United States intends to continue to investigate the other defendants named in the Fourth Amended Original Complaint, and may seek intervention as to one or more of those defendants in the future. Although the United States has not decided whether to intervene as to the remaining defendants, we respectfully refer the Court to 31 U.S.C. § 3730(b)(1), which allows the relators to maintain the action in the name of the United States; providing, however, that the "action may be dismissed only if the court and the Attorney General give written consent to the dismissal and their reasons for consenting." Id.

Therefore, the United States requests that, should either the relators or the defendants in this action propose that this action be dismissed, settled, or otherwise discontinued as to those defendants against whom the United States has not yet made an election decision, this Court solicit the written consent of the United States before ruling or granting its approval.

Furthermore, pursuant to 31 U.S.C. § 3730(c)(3), the United States requests that all pleadings filed in this action be served upon the United States. The United States reserves its right to order any deposition transcripts and to intervene in this action, for good cause, at a later date.

Respectfully submitted,

STUART E. SCHIFFER
Deputy Assistant Attorney General

MIKE BRADFORD
United States Attorney
Eastern District of Texas

O. KENNETH DODD
Texas Bar No. 05931685
Assistant U.S. Attorney
350 Magnolia Street
Suite 150
Beaumont, TX 77701
ATTORNEY IN CHARGE

JOYCE R. BRANDA
ALAN E. KLEINBURD

DODGE WELLS
District of Columbia Bar No. 425194
ATTORNEY IN CHARGE

PATRICIA R. DAVIS
RINA TUCKER
TOM LEDERMAN
ROBERT MCAULIFFE
Attorneys
Commercial Litigation Branch
Civil Division
U.S. Department of Justice
P.O. Box 261
Ben Franklin Station
Washington, D.C. 20044
(202) 307-0407

Dated: 2-18-98

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing document was telefaxed, mailed via the United States Postal Service, and/or hand delivered to all lead counsel of record on this the 19th day of February, 1998.

O. KENNETH DODD
ASSISTANT UNITED STATES ATTORNEY